

SEP 16 2008

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 5992

TJ BAKER HOLM

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5992 as a low-rated matter. In this case, the Complainant, John M. Faulk (Faulk for Congress), alleges that TJ Baker Holm violated the Federal Election Campaign Act ("Act") by failing to file a Statement of Organization (FEC Form 1), a Statement of Candidacy (FEC Form 2) and reports of receipts and disbursements (FEC Form 3). Specifically, Ms. Holm allegedly was a candidate for the U.S. House of Representatives in the 18th District of Texas who raised and/or spent at least \$5,000 on campaign expenses, but failed to file the required FEC forms.

Ms. Holm responded to the complaint by noting that she did not raise or spend more than \$5,000 during her campaign and, therefore, she was not required to file any of the required FEC forms. She further states that her Committee received five contribution checks

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1 totaling \$3,625.00. A sixth check from Elizabeth O'Neill, totaling \$1,500.00, was not
2 actually a contribution check, but rather a payment for services that she rendered to
3 Ms. O'Neill. Ms. Holm states that she requested that Ms. O'Neill provide her payment in the
4 form of a check made out to the Harris County Republican Party, as a partial payment for her
5 filing fee. Therefore, Ms. Holm contends that the check should not be considered as a
6 contribution. Additionally, Ms. Holm responded that the costs associated with a website
7 design expense was initially intended for the re-launching of her online magazine, but was
8 later used for her campaign website instead and that other nominal campaign expenses were
9 provided at little to no cost to her by relatives and family friends.

10 As noted by Ms. Holm, the check totaling \$1,500.00 provided by Mrs. O'Neil was
11 not intended as a contribution to her campaign. On the other hand, the other funds expended
12 on behalf of the campaign, which were donated or provided by others, could possibility be
13 considered as in-kind contributions to the campaign. *See* 2 U.S.C. §§ 431(8)(A)(i) & (ii).
14 These in-kind contributions, along with the monetary contributions, may or may not have
15 exceeded the \$5,000 threshold, thereby requiring Ms. Holm to file the forms as alleged in the
16 complaint.

17 In light of the de minimis amount alleged to be in violation, coupled with the fact
18 that the candidate may not have exceeded the threshold for filing, and in furtherance of the
19 Commission's priorities and resources, relative to other matters pending on the Enforcement
20 docket, the Office of General Counsel believes that the Commission should exercise its
21 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5992, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

9/15/08
Date

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BY:

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Attachment:
Narrative in MUR 5992